AFFIDAVIT OF LEON F. ACIERTO

I, Leon F. Acierto, being duly sworn on oath, deposes and say:

1. That I am a degreed chemical engineer employed by the Enforcement Division, United States Environmental Protection Agency (U.S. EPA), Region V.

2. As part of my duties, I took part in two field inspections on February 5, 1980, and April 23-24, 1980, of the Chemical Recovery Systems (CRS) facility in and around 142 Locust Street, Elyria, Ohio.

3. That on February 5, 1980, I and other U.S. EPA personnel (Frank Biros, Gene Meyer, Dan Watson and Melanie Toepfer) made an inspection of CRS. The group arrived at the site approximately 11:15 AM and remained on the site until 1:30 PM. The following is my general observations during this inspection:

a. We met with both Jim Freeman, company president and Bob Spears, CRS employee, at various times during the inspection. The site is approximately 4 acres in size alongside the Black River and Locust Street. Mr. Freeman indicated to us that among the most commonly reclaimed chemicals are methyl ethyl ketone, toluene, xylenes, paint solvents, and chlorinated hyrocarbons including methylene chloride, trichloroethylene and perchloroethylene among others.

b. Mr. Freeman also indicated that the amount of chemical sludges generated by the distillation operation using Rodney Hunt and Brighten Units is approximately 10,000 gallons per week. Freeman said that he has a problem finding a suitable facility other than Robert Ross, to accept the waste for disposal and therefore has to pay any fee dictated by Robert Ross. Mr. Freeman estimated that there are 3,200 chemical drums, filled to varying degrees and some empty, stored on site. The storage areas for drums containing spent chemicals appeared very congested, and no proper labels were evident on most of the drums. Bob Spears, in responding to my questions, indicated that whatever labels are on the drums do not necessarily reflect the actual content of the drums.

c. On questioning also, Mr. Spears indicated that leachate observed to be coming from the facility into the Black River was the result of materials leaking from the sump in the still houses, that to alleviate the situation, the company had installed a boom with absorbent pads in the Black River.

d. Organic chemical fumes were prevalent in and around the still houses and around the drum and bulk storage areas. Some of the drums were observed to be rusted through and leaking. Several hundreds were observed to be stacked 3-4 high along the Black River and in danger of toppling over.

e. The general area appeared to be improperly maintained, i.e. poor housekeeping with lots of debris, improper methods of handling and transferring of chemicals, improperly constructed bulk storage tanks and excessive chemical spillages in several areas.

f. Dan Watson of the U.S. EPA District Office collected five samples while on site, including: 1) contents of an open drum adjacent to the still in the building housing the machine shop; 2) pooled chemical on ground; 3) soil/liquid sample between row of drums located near the machine shop; 4) soil/liquid sample in doorway of still building adjacent to Black River; and 5) soil/leachate sample on bank of Black River. Analytical results of the samples indicated the presence in high concentrations of several of the organic chemicals listed as hazardous and toxic under the Clean Water Act, including polychlorinated bi-phenyls, toluene, ethyl benzene, xylene, etc. The flash points of the solvent sample 1) and pooled chemical sample 2) as described above were 34 F and 60 F, respectively, as determined by the U.S. EPA laboratory.

4. That on April 23-24, 1980, I made the inspection and environmental survey with the help of Mr. William Albrecth and Ms. Dawn Tharr, both of the National Institute and Occupational Safety and Health (NIOSH). I also was accompanied by Dan Watson of the U.S. EPA, Eastern District Office.

5. That on the aforementioned April 23-24, 1980, inspection, the following were my observations and other highlights:

a. We arrived at CRS at around 11:00 AM. Upon arrival, we met briefly with Mr. James Freeman, company president. I introduced the people from NIOSH and briefly stated our objectives and what we would be doing during the two day survey.

b. The distillation unit located near the Black River was shutdown during the duration of this survey. This particular unit was designated during a previous inspection as a possible source of excessive chemical emission, in addition to other sources. Bob Spears of CRS indicated to me that the company may not restart this particular unit due to high cost of operating it.

c. Except for the shutdown of one of the distilling units, the general conditions of the facility including the drum and bulk storage areas remain practically unchanged from that observed during the February 5, 1980, survey. The strong chemical odor was still perceivable wherever I was in the plant. Leachate was observed leaking from the property to the Black River. Drums containing sludge residues, and possibly others like ketones and chlorinated hydrocarbons including methyl ethyl ketones, trichloroethylene, methylene chloride, according to Mr. Freeman, are stored at this

site. There are approximately 3,200 drums stacked 3 to 4 high, no DOT labels evident, and some appeared to be full or 1/3 to 1/2 full on sounding. Some of the drums were observed to be rusty and/or leaking. Mr. Freeman told me that he can not find anyone that would accept the accumulated chemical wastes for disposal.

d. Sampling of ambient air using charcoal tube personal samplers was performed with the help of the NIOSH people. Portable fume emission detector and explosivity meters were also used in and around the still buildings and storage areas. The ambient air sampling was done during the duration of the 4:00 PM to 12:00 PM shift of April 23, 1980, and again during the 8:00 AM to 4:00 PM shift of April 24, 1980. A total of 18 air samples were collected.

e. Organic chemical fumes were detected using an ionization meter around the drum and bulk storage areas. Also, the steam-like emission from atop the distillation building housing the Rodney Hunt distiller was found to contain 200-250 ppm organic chemicals using said meters. (The complete report including the analytical results for the ambient air samples has not yet been submitted by NIOSH to U.S. EPA.)

f. A total of three water and/or sediment samples were collected, one from a sewer pipe discharging to the Black River, one from a leachate stream leading from behind the Brighten distillation building and one of a black material observed to be leaking from the property into the area in the Black River bounded by a boom. (Analytical results of these samples are not yet available as of this writing.)

g. We left the site at approxmately 4:30 PM, April 24, 1980.

Further, affiant sayeth not.

Dated this June 24, 1980

Leon F. Acierto

Subscirbed and sworn to before me this 24 day of June, 1980.

Eileen R Bloom
Notary Public